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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

CASE NO. Cr. S-04-0069-MCE

Plaintiff.

**MOTION TO CONTINUE HEARING
ON MOTION TO QUASH SUBPOENA**

Y.

LARRY WELLS, JEFFREY WELLS, and
HENRY KAISER.

Defendants.

With the Court's permission, defendants LARRY WELLS and JEFFREY WELLS, by and through their undersigned counsel, do hereby move to continue the hearing on Surewest's Motion to Quash Subpoena, presently set for May 10, 2005 @ 2:00 p.m. before the Honorable Gregory G. Hollows, to May 31, 2005, at 2:00p.m.

This rescheduling is necessary based on newly changed circumstances. Subsequent to the filing of the Motion, a new subpoena duces tecum has been authorized, issued and served on another party to the same series of transactions which are sought under the original subpoena duces tecum which is the subject of the pending Motion to Quash. This second subpoena was issued and served on the General Counsel's office of Ernst and Young on May 4, 2005.

Further, additional more detailed subpoenas are also being prepared, and are expected

1 to be authorized and issued within the next week to ten days. These additional subpoenas
2 involve the same identical legal issues and the same identical facts that would be litigated in the
3 presently set hearing.

4 This pending hearing, and any and all subsequent hearings on the same facts and issues,
5 may involve the taking of sworn testimony and the in camera review of substantial testimony and
6 materials which form the confidential basis of the defense in a pending felony criminal
7 prosecution before the Honorable Morrison England.

8 Additional Motions to Quash are a virtual certainty, filed by Surewest, Ernst and Young,
9 and other entities involved in the same series of transactions underlying the criminal prosecution.
10 These additional Motions to Quash will involve all of the same identical facts and legal issues
11 presented by the pending Motion to Quash and set for hearing on May 10, 2005.

12 In light of this, defendants Larry Wells and Jeff Wells hereby move to continue the
13 presently set hearing to a date three weeks later, May 31, 2005, to allow the Motions to Quash to
14 catch up with each other and be presented and argued in one hearing. Counsel for the defendants
15 recognize that the now set trial date of June 8, 2005 follows very closely behind this requested
16 hearing date. However, all counsel, including the United States Attorney's Office, have agreed
17 to continue the trial to a later date. On May 4, 2005, counsel for the pending Motion to Quash
18 was notified in writing and by telephone of the defendants' request to continue the hearing on the
19 Motion and the reasons why, but has not responded.

20 DATED: May 5, 2005

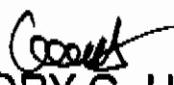
WILLIAM J. PORTANOVA
Attorney for Defendant LARRY WELLS

21 DATED: May 5, 2005

WAYNE ORDOS
Attorney for Defendant JEFFREY WELLS

22 IT IS SO ORDERED.

23 DATED: May 5, 2005


24 GREGORY G. HOLLOWSS
THE HON. GREGORY G. HOLLOWSS
United States Magistrate Judge

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